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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: NEUHAUS, Ekkehard et al.

INTERNATIONAL
APPLICATION NO.: PCT/EP99/03292

SERIAL NO.: 09/674,768

CONF:

FILED: 8 November 2000

FOR: TRANSGENIC PLANTS WITH A MODIFIED ACTIVITY
OF A PLASTIDIAL ADP/ATP TRANSLOCATOR

RECEIVED
08 JUN 2001
Legal Staff
International Division

**RESPONSE TO NOTIFICATION OF A DEFECTIVE RESPONSE - NOTIFICATION
OF A DEFECTIVE OATH OR DECLARATION**

Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

24 April, 2001

Attn: Barbara A. Campbell

Sir:

In a communication dated 28 March 2001 the USPTO advised that Applicants' response filed on February 23, 2001 did not complete all of the requirements set forth in the Notification of Missing Requirements because the signed oath or declaration "does not identify all of the inventors". Applicants submit that the signed declaration filed on February 23, 2001 does indeed properly name all of the inventors, so that all of the filing requirements have been completed.

This national stage PCT application was initially filed, without a signed declaration, naming six persons as inventors. It was subsequently determined that two of those persons, Jozef Schell and Norbert Martini, were not actually inventors of the claimed subject matter. Thus, to correct the original named inventorship, Applicants submitted a declaration signed by the four proper inventors, but not

signed by Schell and Martini. This is the appropriate procedure for correcting the original named inventors pursuant to 37 CFR 1.48(f)(1) which states that

"If the correct inventor or inventors are not named on filing a non provisional application under section 1.53(b) without an executed oath or declaration under section 1.63, the later submission of an executed oath or declaration under section 1.63 during the pendency of the application will act to correct the earlier identification of inventorship."

This is precisely the procedure followed in this case by submitting the oath or declaration signed only by the four correct inventors.

Accordingly, Applicants request that the Notification dated 28 March 2001 be withdrawn and that a new communication be issued confirming that all of the filing requirements have been met in this application, so that the application can proceed in due course to substantive examination.

If there are any questions still to be resolved on this matter, the appropriate USPTO personnel are requested to contact the undersigned by telephone at (714) 708-8555.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope to: Commissioner of Patents and Trademarks, Washington

D.C. 20231 on: 24 April 2001
(Date of deposit)

BIRCH, STEWART, KOLASCH & BIRCH, LLP

Forrest M. Tillman
(Signature)

24 April 2001
(Date of Signature)

LRS/lmt

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: Leonard R. Svensson

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Request for Legal Staff Consideration

Serial No.

09/674768

RECEIVED

08 JUN 2001

Date:

June 4, 2001

Legal Staff
International Division

Request:

☐

Petition To Revive Unintentionally Abn. Appl.

☐

Petition under Rule 1.47

☒

Other:

See Attached Communication
8

Requestor:

Barbara

Supervisor:

Donna

Response:

By:

Date:
